

**ASSEMBLY BILL**

**No. 628**

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**Introduced by Assembly Members Gorell and Hall**

February 20, 2013

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An act to add Section 63045.1 to the Government Code, and to amend Section 21180 of, and to add Chapter 13 (commencing with Section 25990) to Division 15 of, the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as introduced, Gorell. Energy management plans for harbor and port districts.

(1) Existing law requires the California Infrastructure Development Bank, following consultation with appropriate state and local agencies, to establish criteria, priorities, and guidelines for the selection of projects to receive assistance from the bank, including those based on, among other things, the State Environmental Goals and Policy Report, or its successor, relating to implementation of state environmental goals and policies. Existing law further requires that projects that receive assistance from the bank, among other things, facilitate effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources.

This bill would require the bank to fund projects to finance projects to promote economic development in harbor and port districts that are developed pursuant to energy management plan.

(2) Existing law requires the State Energy Resources Conservation and Development Commission to adopt energy conservation standards to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, and to implement various programs to provide

financial assistance to specified entities for energy efficient improvements.

This bill would require a harbor or port district, as defined, in collaboration with an electrical corporation, gas corporation, or publicly owned electric utility, as defined, serving the district, to prepare an energy management plan for the district that is intended to reduce air emissions and promote economic development through the addition of new businesses and the retention of existing businesses in the district, in accordance with specified requirements.

(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA establishes procedures for creating the administrative record judicial review procedure for any action or proceeding brought to challenge the lead agency's decision to certify the EIR or to grant project approvals.

Existing law, the Jobs and Economic Improvement Through Environmental Leadership Act of 2011, until January 1, 2015, establishes specified judicial review procedures for the judicial review of the EIR and approvals granted for a leadership project related to the development of a residential, retail, commercial, sports, cultural, entertainment or recreational use project, or clean renewable energy or clean energy manufacturing project. The act authorizes the Governor to certify a leadership project for streamlining pursuant to the act if certain conditions are met.

This bill would include a project to develop or implement an energy management plan developed pursuant to provisions of the bill among those types of projects covered by the Jobs and Economic Improvement Through Environmental Leadership Act of 2011. Because the lead agency would be required to use alternative procedures for creating the administrative record for projects to implement an energy management plan, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 63045.1 is added to the Government  
2 Code, to read:

3 63045.1. Projects to promote economic development in harbor  
4 and port districts implemented pursuant to an energy management  
5 plan developed in accordance with Chapter 13 (commencing with  
6 Section 25990) of Division 15 of the Public Resources Code shall  
7 be eligible for funding under this article. The bank shall consider  
8 appropriate action to remove unnecessary barriers for the financing  
9 of those projects.

10 SEC. 2. Section 21180 of the Public Resources Code is  
11 amended to read:

12 21180. For the purposes of this chapter, the following terms  
13 shall have the following meanings:

14 (a) "Applicant" means a public or private entity or its affiliates,  
15 or a person or entity that undertakes a public works project, that  
16 proposes a project and its successors, heirs, and assignees.

17 (b) "Environmental leadership development project," "leadership  
18 project," or "project" means a project as described in Section 21065  
19 that is one the following:

20 (1) A residential, retail, commercial, sports, cultural,  
21 entertainment, or recreational use project that is certified as LEED  
22 silver or better by the United States Green Building Council and,  
23 where applicable, that achieves a 10-percent greater standard for  
24 transportation efficiency than for comparable projects. These  
25 projects must be located on an infill site. For a project that is within  
26 a metropolitan planning organization for which a sustainable  
27 communities strategy or alternative planning strategy is in effect,  
28 the infill project shall be consistent with the general use  
29 designation, density, building intensity, and applicable policies  
30 specified for the project area in either a sustainable communities  
31 strategy or an alternative planning strategy, for which the State  
32 Air Resources Board, pursuant to subparagraph (H) of paragraph  
33 (2) of subdivision (b) of Section 65080 of the Government Code,  
34 has accepted a metropolitan planning organization's determination  
35 that the sustainable communities strategy or the alternative planning

1 strategy would, if implemented, achieve the greenhouse gas  
2 emission reduction targets.

3 (2) A clean renewable energy project that generates electricity  
4 exclusively through wind or solar, but not including waste  
5 incineration or conversion.

6 (3) A clean energy manufacturing project that manufactures  
7 products, equipment, or components used for renewable energy  
8 generation, energy efficiency, or for the production of clean  
9 alternative fuel vehicles.

10 (4) *A project to develop or implement an energy management*  
11 *plan developed pursuant to Chapter 13 (commencing with Section*  
12 *25990) of Division 15.*

13 (c) “Transportation efficiency” means the number of vehicle  
14 trips by employees, visitors, or customers of the residential, retail,  
15 commercial, sports, cultural, entertainment, or recreational use  
16 project divided by the total number of employees, visitors, and  
17 customers.

18 SEC. 3. Chapter 13 (commencing with Section 25990) is added  
19 to Division 15 of the Public Resources Code, to read:

20

21 CHAPTER 13. ENERGY MANAGEMENT PLANS FOR HARBOR AND  
22 PORT DISTRICTS  
23

24

25 25990. The Legislature finds and declares all of the following:

26 (a) The state should promote the efficient use of low-cost,  
27 low-emissions energy sources in the operations of its ports and  
28 harbors.

29 (b) There is an opportunity in port and harbor district operations,  
30 including the movement of commercial goods, to reduce vehicular  
31 emissions of greenhouse gases and criteria pollutants.

32 (c) The state should encourage the development of new  
33 businesses and the retention of existing businesses within port and  
34 harbor district boundaries.

35 (d) Energy utility customers located within the state’s port and  
36 harbor districts can benefit from the addition of new businesses  
37 and the retention of existing businesses through increased energy  
38 cost certainty.

39 (e) Businesses located within the state’s port and harbor districts  
40 could benefit through greater stability and certainty in the cost of  
energy services.

1 (f) Investor-owned and publicly owned utilities are in an optimal  
2 position, and should be encouraged to engage in joint projects with  
3 port and harbor districts to provide and administer energy-related  
4 service alternatives and programs that can promote economic  
5 development and retention in those districts.

6 25991. (a) For purposes of this chapter, the term “district”  
7 shall mean a harbor or port district formed pursuant to Division 8  
8 (commencing with Section 5000) of the Harbors and Navigation  
9 Code. A district may prepare one or more energy management  
10 plans, developed jointly with an electric corporation, as defined  
11 in subdivision (a) of Section 218 of the Public Utilities Code, a  
12 gas corporation, as defined in Section 222 of the Public Utilities  
13 Code, or a public utility, as defined in subdivision (a) of Section  
14 216 of the Public Utilities Code, that produces, generates, or  
15 supplies electricity to the public and that serves the district in order  
16 to reduce air emissions, promote economic development, and  
17 encourage the development of new businesses and retain existing  
18 businesses in that district.

19 (b) If a district prepares an energy management plan pursuant  
20 to this chapter, it shall include, at a minimum, all of the following:

21 (1) An electric or natural gas load forecast, developed in  
22 coordination with the serving electrical corporation, gas  
23 corporation, or local publicly owned electric utility, and that  
24 reflects anticipated load growth within the district.

25 (2) An assessment of the role that distributed generation,  
26 combined with accurately priced utility services, could play in  
27 providing greater rate stability and energy cost certainty to aid in  
28 economic development, and proposed actions with respect to that  
29 role. This assessment shall be developed jointly with the serving  
30 electrical corporation, gas corporation, or local publicly owned  
31 electric utility.

32 (3) A list of recommendations, developed jointly with the  
33 serving electrical corporation, gas corporation, or local publicly  
34 owned electric utility, for the enhanced use of cost-effective energy  
35 efficiency and demand-side management in existing buildings and  
36 the inclusion of energy efficiency measures as part of the  
37 development of new buildings.

38 (4) A plan to reduce air emissions for vehicle use within district  
39 boundaries, including vehicles used for movement of commercial  
40 products. Proposed actions, developed jointly with the serving

1 electrical corporation, gas corporation, or local publicly owned  
2 electric utility, may include replacement of vehicles with lower  
3 emitting alternatives and development of infrastructure, in  
4 appropriate areas, to aid in the refueling of alternative fuel vehicles,  
5 and may provide for utility ownership or operation of those  
6 facilities to provide services within the district.

7 (5) Other proposed actions and associated utility services that  
8 may be implemented in connection with the jointly developed  
9 energy management plan.

10 (6) Proposed methods to fund the activities included in the plan,  
11 including funding through utility ratepayer-funded programs and  
12 financing through the California Infrastructure and Economic  
13 Developmental Bank established pursuant to Chapter 3  
14 (commencing with Section 63050) of Division 1 of Title 6.7 of  
15 the Government Code, the California Alternative Energy and  
16 Advanced Transportation Financing Authority Act (Division 16  
17 (commencing with Section 26000)), or other appropriate sources.

18 (c) If a district has jointly developed with an electric or gas  
19 corporation one or more plan elements under a plan prepared  
20 pursuant to subdivision (b) that involves special programs to be  
21 offered in the district and administered by the electric or gas  
22 corporation to facilitate emissions reductions, increase energy  
23 efficiency, or promote economic development, including, but not  
24 limited to, the use of biogas for direct injection into common carrier  
25 pipelines, economic development rates, distributed generation,  
26 energy storage, and alternative fuel vehicle infrastructure, the  
27 Public Utilities Commission shall provide expedited review of the  
28 proposed jointly developed elements of the plan. The Public  
29 Utilities Commission shall encourage electric or gas corporations  
30 to participate jointly with local agencies in developing,  
31 implementing, and administering viable energy management plans  
32 for districts, and shall not limit the role of the electric or gas  
33 corporation that was cooperatively developed in the energy  
34 management plan. The governing boards of local publicly owned  
35 utilities and rural electric cooperatives shall encourage joint  
36 participation with local agencies and gas corporations in  
37 developing, implementing, and administering viable energy  
38 management plans for districts.

39 (d) If an energy management plan is prepared pursuant to this  
40 chapter, it shall also address the development of projects that

1 provide greater certainty of energy costs over a period of up to 15  
2 years for businesses developing in the district and shall consider  
3 applying to the California Infrastructure and Economic  
4 Development Bank for financial support of these projects.

5 SEC. 4. No reimbursement is required by this act pursuant to  
6 Section 6 of Article XIII B of the California Constitution because  
7 a local agency or school district has the authority to levy service  
8 charges, fees, or assessments sufficient to pay for the program or  
9 level of service mandated by this act, within the meaning of Section  
10 17556 of the Government Code.